Edn. & P.H. **(19 41) Department.**

MS. SERIES.

G.O. No. 1012

16

Dated 11-3-41

Despatch Abstract.]

License - Bellary Municipal Council - Grant of t license to S. Abdul Azeez Sahib for running a lime-kiln - notice to show cause against cancellation - issued.

PUBLIC HEALTH DEPARTMENT.

Received ..... 19 *Registered* 19

46769

Subject.

Licence - Bellary Municipality - Lime kiln - Grant of - Cancellation of the Councils Resolution.

ENCLOSURES.
No. Typed on the reverse.
Spare copies

R. No. 31550-2-Hyg.40.

Station Madras, *Dated the* 9th. November 1940.

From (Name) Lieut-Col.C.M.Ganapathy, M.C., I.M.S.,

(Designation) Director of Public Health,Madras.

To The Secretary to the Government of Madras,

EDUCATION AND PUBLIC HEALTH Department.

MADRAS.

Sir,

In forwarding herewith a copy of letter No.L.C. 68/40, dated 2nd. October 1940 from the Municipal Health Officer, Bellary, together with its enclosures, I have the honour to state that the action of the Bellary Municipal Council in granting the licence overruling the decision of the Municipal Health Officer and the Commissioner in the matter is irregular and to recommend that the Resolution may be cancelled.

I have the honour to be,
Sir,
Your most obedient servant,

C M Ganapathy

Lieut-Col.I.M.S.,
Director of Public Health,Madras.

T.M.P.11 PG 12/11

P. T.O

Enclosure.

Copy of letter No.L.C.68/40, dated 2nd. October 1940.
From the Municipal Health Officer, Bellary.
To the Director of Public Health, Madras.

Subject:-Licence - Lime kiln House No.194/VI S.Abdul Azeez Sahib - Detailed furnished.

The lime kiln under reference is in a thickly populated area of VI Ward of this municipality. The sketch of the area is herewith enclosed.

From the sketch it may be seen that smoke and chunam heat will come over to the residents as the kiln is on raised level and is situated in a direction from which the wind generally blows.

There is an area marked for Brick and Lime kiln in the Industrial area for this municipality. A notification fixing industrial area was published on 14th. April 1939, copy of which is enclosed. The party applied for licence in L.C.68/40, dated 4th. April 1940 and on my remarks that "permission may be refused as the kiln is located amidst human habitation and is injurious to publi health", the Commissioner agreeing with my report refused the licence on 1st. May 1940. A copy of the refusal order is enclosed.

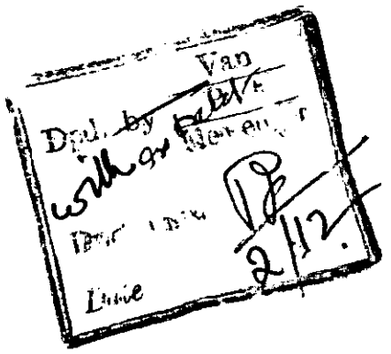
The party appealed to the Municipal Council on 3rd. June 1940 and his appeal was admitted under Section 322 (c) of the Dt. Municipalities Act.

The Council in its Resolution No.14, dated 10th. July 1940 granted the licence. A copy of the Council's Resolution is enclosed.

Copy of Proceedings No.L.C.68/40, dated 1st. May 1940 of the Commissioner, Municipal Council, Bellary.

Regarding Licence lime kiln and timber depot No.194/VI-1940-41.
Reference:- Licence application dated 4th. April 1940 from Mr. Abdul Azeez Sahib 194/6, requesting to grant licence for running a timber depot and lime kiln in premises No.194/6Ward.
Read report of the Municipal Health Officer, thereon.
Licence for running the timber depot alone is granted.
Licence for running the lime kiln is refused as it is situated amidst human habitation and is injurious to public health.

Extract from the Proceedings of the Municipal Council, Bellary, passed at its meeting held on 10th. July 1940.
No.14 - Petition, dated 3rd. June 1940 from S.Abdul Azeez Sahib, House No.194/VI Ward, appealing against the orders of the Commissioner, refusing licence for running the lime kiln as it is situated amidst human habitation and injurious to public health. Commissioner's Note to place the subject before Council as it is an appeal under Section 322(c)(ii).
Resolution - Licence be granted.



T.M.P.11

Ex 47769-1 E1 PH 29/41/40

Copy of letter No LC 68/40 & 2-10-40 from the D MHO Bellary is sent to the Commr Bellary Municipality for report.

2 The report should be sent through the Collector of Bellary

To The Commr. Bellary Municipality (through the Collector)

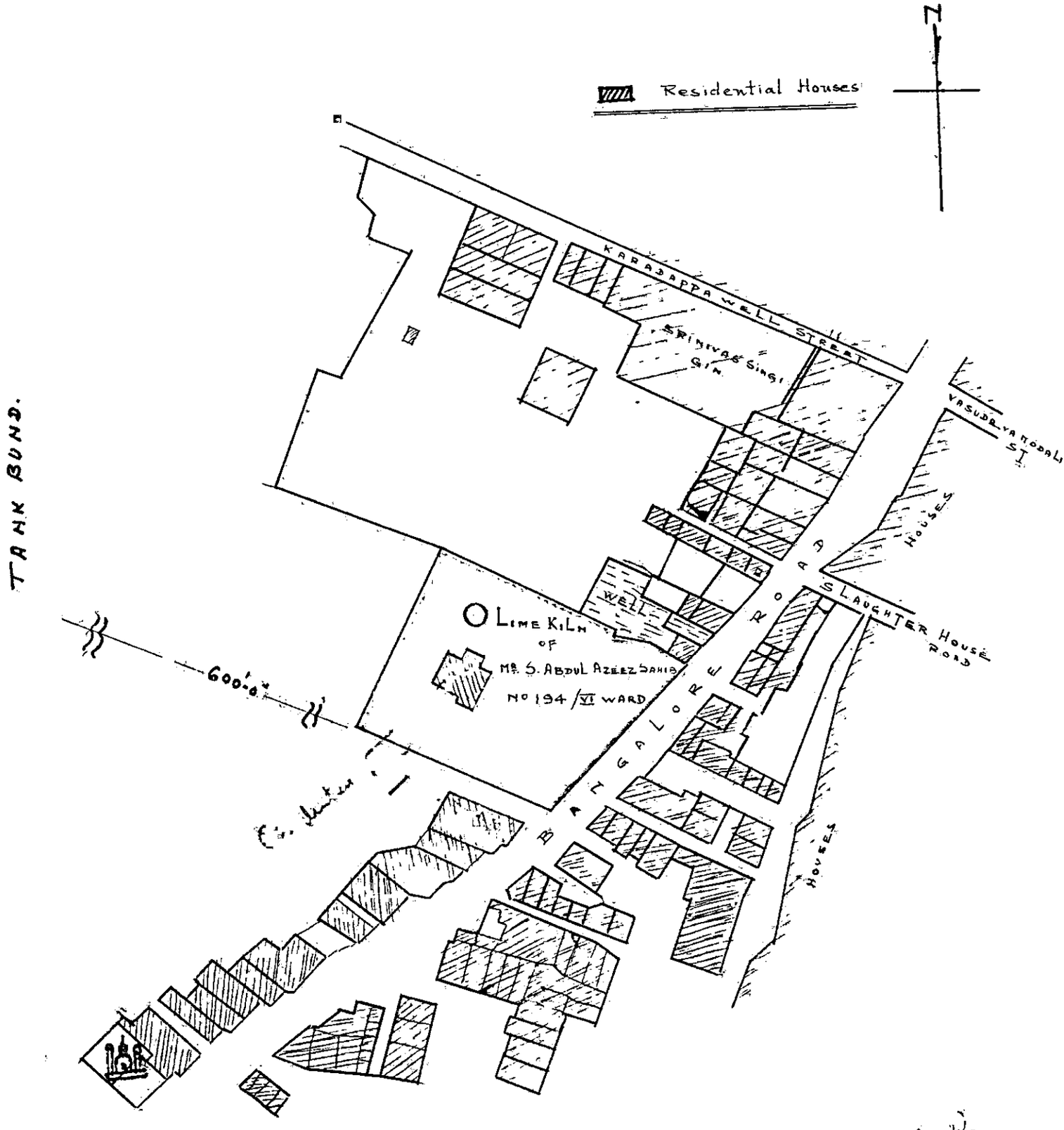
5/12/40 (with enclosures) R. 4-1-41.

28/11/40

Sketch Showing

LIME KILN IN VI WARD

Scale 1" = 132'



K. Venkatarao
7/10.
Health Officer

T.P.O 27.9.60.

Bellary District Gazette Supplement.

Dated 14th April 1939.

బళ్ళారి జిల్లా గెజెటు సప్లిమెంటు

BELLARY MUNICIPAL SHEET.

బళ్ళారి మునిసిపల్ షీటు

NOTIFICATION.

In accordance with G. O. No. 1119 P. H. dated 7—6—1927 and in supercession of all previous orders on the subject, the following S. Nos. have been declared as industrial areas by the Municipal Council in Resolution No. 35 dated 14—2—39.

S. Nos. — 463, 462. 460, 461, 781, 782, 783, 784 Part, 785, 778 Part, 470, 469, 468, 472, 760, 765, 766, 772. 775 Part, 776 Part, 771 Part.

Municipal Office, Bellary.
Dated 24—3—39.

(Sd.) A. V. KRISHNA RAO,
Commissioner.

ప్రకటన.

గౌర్న మెంటువారి నంబరు 1119 P. H. 7-6-27 ప్రకారం ఈకిందకనుపరచిన నర్వే నంబర్లను మునిసిపల్ కౌంసిలువారు తమ తీర్మానం నం॥ 35/14-2-39 ప్రకారం ఇండస్ట్రియల్ ఏరియాలో చేర్చడమయినది.

463, 462 460, 461, 781, 782, 783, 784 Part, 785, 778 Part, 470, 469, 468, 472, 760, 765, 766, 772, 775 Part, 776 Part, 771 Part.

(దస్కతు) ఏ. వి. కృష్ణారావు,
కమీషనరు.

Laxmi Narasimha Press, Bellary. 300 Copies.

LOCAL ADMINISTRATION **DEPARTMENT.**

Received — 19 . *Registered* 19 .

COLLECTOR'S OFFICE 21 DEC 1940 BELLARY

Subject.

LICENCE - BELLARY MUNICIPALITY - Lime-kiln - grant of - Cancellation of the Council's Resolution.

*****

ENCLOSURES.
No. One
Spare copies

D.Dis. No. 9226/40.

Station BELLARY, *Dated the* 16th DECEMBER 19 40

From (Name) SRI.K.VENKATADRI CHOUDARY, B.A.,
(Designation) Commissioner, Bellary Municipality, Bellary.

To The Secretary to the Government of Madras,

PUBLIC HEALTH Department.
Fort.St.George, Madras.

Through The Collector, Bellary.

Sir," Janab.D.Abdul Rawoof Sahib Bahadur, B.A.,B.L.,M.L.A. F.A.U., Chairman, M.C., Bellary.

Ref:- Government Endorsement No.47769-1-E.1.P.H ., dated 29-11-1940.

It is a fact that the lime-kiln is on the Western side (of the Bangalore Road) from which side the wind blows in the major part of the year, with residential buildings in the wind-ward direction at a distance of about one-third of a furlong both on the East and South of it. It may be true that the lime-kiln has been there for 20 or more years, but it does not, on that account, cease to be a nuisance to the residential buildings. Both coal and fire-wood are used for fuel in the kiln, either of which causes nuisance to the residential buildings, on account of the smoke and

and smell in the case of coal, and of the smoke and sparks in the case of fire-wood.

2. On account of these objections, license was refused for running the kiln, for 1940-41, by the Commissioner. If the Government agree that its licensing is objectionable the Council may be asked to reconsider its resolution No.14 dated 10-7-1940.

C. Subbaradri

skr/17.12. Commissioner.

17.12.40

Forwarded
D Ramulu Naidu
18/12/40
Chairman M.C.

Copy of Endorsement No.47769-1-E.1-P.H., dated 29-11-40 of the Government of Madras, Education & Public Health Department

*****

Sub:- Licence - Bellary Municipality - Lime kiln - grant of - Cancellation of the Council's resolution.

Ref:- From the Director of Public Health, Madras, R.No.31550-2-Hyg.40 dated 9-11-1940.

*****

Copy of letter No.L.C.68/40, dated 2nd October 1940 from the Municipal Health Officer, Bellary is referred to the Commissioner, Bellary Municipality for report.

2. The report should be sent through the Collector of Bellary.

*****

/ True copy /

-----o-----

Copy of letter No.L.C.68/40 dated 2nd October 1940 from the Municipal Health Officer, Bellary to the Director of Public Health, Madras.

Sub:- Licence - Lime kiln house No.194/VI - S.Abdul Azeez Sahib - Detailed furnished.

The lime kiln under reference is in a thickly populated area of VI Ward of this Municipality. The sketch of the area is herewith enclosed.

From the sketch it may be seen that smoke and chunam heat will come over to the residents as the kiln is on raised level and is situated in a direction from which the wind generally blows.

There is an area marked for Brick and Lime kiln in the Industrial area for this municipality. A notification fixing industrial area was published on 14th April 1939, copy of which is enclosed. The party applied for licence in L.C.68/40, dated 4th April 1940 and on my remarks that "permission may be refused as the kiln is located amidst human habitation and is injurious to public health", the Commissioner agreeing with my report refused the licence on 1st May 1940. A copy of the refusal order is enclosed.

P.T.O.

The party appealed to the Municipal Council on 3rd June 1940 and his appeal was admitted under section 322(c) of the District Municipalities Act.

P1;7 5th M

The Council in its resolution No.14 dated 10th July 1940 granted the licence. A copy of the Council's Resolution is enclosed.

Copy of Proceedings No.L.C.68/40 dated 1st May 1940 of the Commissioner, Municipal Council, Bellary.

Regarding Licence lime kiln and timber depot No.194/VI. 1940-41.

Reference:- Licence application dated 4-4-1940 from Mr. Abdul Azeez Sahib, 194/6 requesting to grant licence for running a timber depot and lime kiln in premises No.194/6-Ward.

Read report of the Municipal Health Officer, thereon.
Licence for running the timber depot alone is granted.
Licence for running the lime kiln is refused as it is situated amidst human habitation and is injurious to public health.

Extract from the Proceedings of the Municipal Council, Bellary, passed at its meeting held on 10th July 1940.

No.14. Petition dated 3rd June 1940 from S.Abdul Azeez Sahib, House No.194/VI Ward, appealing against the orders of the Commissioner, refusing licence for running the lime kiln as it is situated amidst human habitation and injurious to public health. Commissioner's note to place the subject before Council as it is an appeal under Section 322(c) (ii).

RESOLUTION:- Licence be granted.

/ True copy /

Submitted to the Collector for Sanction

Commissioner.

17.12.40

GOVERNMENT OF MADRAS
18 FEB 1941
EDUCATIONAL

C.F.732.

Revenue. DEPARTMENT.

In reply, please quote number, date and short title.*

Received Registered

DS/E1

From (Name) A.D.Crombie, Esq.,C.I.E.,I.C.S.,

(Designation) Collector,

Post Box, (Station) Bellary.

Telegraphic Address

5922

To

The Secretary to the Government ,
Public Health Department ,FortSt.George,
Madras.

D.Dis. *No.* 5690/40B1, *dated* 13 -2- 1941

Sir,

* Licence- Bellary Municipality- Lime-kiln grant of Cancellation of Council's Resolution Recommended.

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Ref:- D.Dis.9226/40 dated 16-12-40 of Commissioner Bellary Municipality, Bellary.

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ENCLOSURES

SPARE COPIES

I submit herewith the reference quoted above and recommend that Resolution No.14 dated 10-7-40 may be cancelled as the existence of the lime-kiln in its present place is a source of danger to -- public health and nuisance to the residential houses in the locality. A copy of Bellary Revenue Divisional Officer's inspection notes is enclosed.

14.2.41

HVR.14.2. For Collector.

Copy of R.D.O's inspection notes.

N.Dis.C.39/41.

Resubmitted.

On 8-1-41 I inspected the lime-kiln and the surrounding The lime-kiln is situated on the edge of the residential quarter and there can be no doubt that as it is situated to the windward of the residential buildings that ~~some~~ smoke and smell from the lime-kiln will cause a nuisance to the occupiers of the residential buildings.

Sd.C.W.Tremenheere,
Rev.Divl.Officer.
Bellary.

(True Copy)

--

Cr o 42679

From the D P H No 31550, of 5-11-40

Licence - Bellary Nl -el. Lime-kiln.

Cancellation of the -

On the report of the M.H.O. Bellary, the D.P.H. has recommended the Cancellation of the resolution of the Bellary Nl -el. No. 14 of 10-2-40 granting a licence to one Abdul Azeez Sahib for running a lime-kiln in an area outside the industrial area set apart for the purpose. The Council has passed the resolution on an appeal preferred to it and under Sec. 322(2) of the M D M. Act its decision is final. It is not clear why the Commr. has not addressed the Govt in the matter

2 It is for consideration whether in view of the report of the M.H.O. that the running of the lime-kiln is injurious to public health, the resolution may be cancelled under Sec. 36 (ii) (c) or whether the Collector may be consulted.

2 It is for consideration whether in view of the report of the M.H.O. that the running of the lime-kiln is injurious to public health, the resolution may be cancelled under Sec. 36 (ii) (c) or whether the Collector may be consulted.

p 2 of

p 44 of the Madras Code - vol III

and the may be asked / to show
this reason through the Coll.
If this is agreed to the enclr.
on 1-2 appln is ~~unapproved~~ approved.

JD
28/11

Lime kiln in a thickly
populated area may be a
danger to P.H. If it is not in this
particular case there are no
grounds for action.

SRM
28.11.40 / Issue

[Endt. 47769-1 E.P.H dy 29-11-40] p req.

From the Commr. Bellary Dly No 52268 dy 16.12.40 p 5 ✓
in Collr. of Bellary No. 5850 dy 13-2-41 p 9 ✓

The Collr. of Bellary recommends
that the resolution of the Bellary M.C.
No. 14 dy 10-2-40 may be cancelled as
the existence of the lime-kiln at its present
site is a source of danger to public health.
The D.P.H. has also recommended the cancellation
of the resolution. The resolution may be
cancelled under Sec. 36 of the M D M Act
A draft order is placed below for appl.

Resoln falls under Sec. 36 (1) (i) (c) of the Act p 1023 of the Madras Code Vol I

6
27/2
JD
28/2/41

① Has it the Council to be
asked to show cause?

② Should it this go to DA also
for ~~#~~ remarks?

MS
25/2

Query (1) on p. 2 ante

Submitted that as the Council's resolution will come under Sec. 36 (1) (ii) (c) of the M. D. M. Act, 1920, the proviso to this section is not applicable. For a precedent please see f. 6 no. 5470 P II of 20-11-40

Query (2) on p. 2 ante

Subm'd. that L. A. are, not ordinarily consulted as regards the subjects assigned to this Dept. ~~Should any difficulty arise in this Dept being consulted~~

A yes. But please see Sec 36 (2), under which an explan has to be called for when the matter comes up on a report from the body. I do not see that it is incorrect to follow a different procedure in this case ~~which has been stated from a~~ Legal ~~may~~ Legal may advise.

B. LA must see. ~~as policy is~~

Q 27/2 JP

ASI

28/2 LS

Legal

LA.

E&PH no 46769-2 E&PH 28-2-41

ASSISTANT SECRETARY I
1 - [illegible]1384
LEGAL DEPARTMENT

Legal Department

Section 36 (2) of the District Municipalities Act does not apply to the present case. That section only applies where the Collector suspends the resolution of a municipal council and reports the action taken by him to the Provincial Government. In this case, the Collector has not suspended the resolution under section 36 (2) nor is his report to the Government one submitted under that section. The facts were brought to the notice of the Government by the Director of Public Health and the Government sent the letter of the municipal Health Officer which was an enclosure to the letter of the D.P.H. to the Commissioner of the municipality for the submission of a report through the Collector. Thus, the Collector's report does not fall under section 36 (2). It is not legally obligatory to give an opportunity to the council for making its explanations, if any, in regard to the matter. But there is of course no objection to giving the council such an opportunity, if the Government so desire, before the resolution is cancelled under section 36 (1) (c) of the Act.

I agree. It will perhaps be desirable to give the municipality an opportunity to show cause why the resolution is cancelled

KM 4/3/41

L.A. / E.A.P.H

8393

Legal 1384-1/3.3.41

L.A. Deptt.

May be perused and returned to E.P.H. Department. No remarks are called for in this Deptt.

4/3.

This Deptt also may agree with Legal at A above

4/3

5.3 / E.P.H

ASST. SECRETARY TO GOVERNMENT 4-MAR 1941 LOCAL ADMINISTRATION DEPT.

EDUCATION AND PUBLIC HEALTH DEPARTMENT 25 MAR 1941

With reference to the notes of Legal & L.A on p. 4 ante, a revised draft is placed below for appl.

9/3

6/3

9/3/81

C No. 46765 From the D.P.H. No. 31550-2 dt 9-11-40

Comm. Bellary Mg No. 5226 dt 16-12-40

Coll. Bellary No. 5890 dt 13-2-41

Codes
No

1012 d. 11. 3. 41

License. Bellary M.cl.

Grant of license to S. Abdul Azeez Sahib for running a lime-kiln Notice to Show Cause against Cancellation - issued

In its resolution No. 14 dt 10-2-40 the Bellary M.cl. granted license to one S. Abdul Azeez Sahib for running a lime-kiln in an area located in the midst of human habitations disagreeing with the views of the Health Officer that the existence of the lime-kiln is injurious to public health. The Coll. of Bellary and the D.P.H. report that the lime-kiln should not be allowed to burn at its present site as its existence is a source of danger to public health and nuisance to the residential houses in the locality. In the

Circumstances, the Govt. hereby
Call upon the Bellary Mcl.
to show cause within a fortnight
from the date of this order why
its resolution No. 14 Dt 10-7-40
should not be cancelled under
Sec. ~~36(1)~~ 36 of the M. D. M. Act 1920

6
6/3

WS
9/3

JD
7.8.41

To the Commr. Bellary Mcl
this the 8th
& Chm. of Bellary
on D. P. H

Hd clerk
12.8.41